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Attorneys for Plaintiff

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION

UNITED STATES OF AMERICA,	)	No. CR-09-00058 RMW
	)	
Plaintiff,	)	STIPULATION TO CONTINUE TRIAL
	)	DATE AND EXCLUDE TIME UNDER
vs.	)	THE SPEEDY TRIAL ACT;
	)	[ ORDER
RAFIC LABBOUN,	)	
	)	
Defendant.	)	
	)	

**STIPULATION**

The United States, by and through Assistant United States Attorney Hartley M. K. West and defendant Rafic Labboun, by and through counsel Assistant Federal Public Defender Nicholas P. Humy, hereby stipulate that the trial date in the above-captioned case, which is currently set for Monday, September 21, 2009, be continued to Monday, November 16, 2009. Defense counsel requires a two-week continuance for medical reasons, to Monday, October 5, 2009. The Court has advised that it is unavailable between October 5 and 19, 2009. Lead trial

1 counsel government for the government, AUSA Hartley West, is unavailable from October 19  
 2 until November 16, 2009, because she will need that time to prepare for two oral arguments on  
 3 complex, consolidated appeals before the Ninth Circuit – *United States v. Ali et al.* (Nos. 07-  
 4 10529, 07-10539 & 07-10542), scheduled for November 2, and *United States v. Grossi* (Nos. 07-  
 5 10272, 07-10430, & 07-16627), scheduled for November 3 – and will need the following week to  
 6 finalize preparations for trial. Thus, November 16, 2009, is the earliest date on which everyone  
 7 will be available.

8 The parties agree that the time between September 21 and October 5, 2009, and the time  
 9 between October 19 and November 16, 2009, is excludable under the Speedy Trial Act, 18  
 10 U.S.C. § 3161(h)(7)(A) and (B)(iv), for continuity of counsel and effective preparation by  
 11 government and defense counsel. The time between October 5 and 19, 2009, due to the Court's  
 12 unavailability for trial, is not excludable under the Speedy Trial Act.

13 IT IS SO STIPULATED.

14  
 15 Dated: September 4, 2009

/s/  
 HARTLEY WEST  
 Assistant United States Attorney

16  
 17 Dated: September 4, 2009

/s/  
 NICHOLAS P. HUMY  
 Assistant Federal Public Defender

**|| ORDER**

GOOD CAUSE APPEARING, upon stipulation of the parties, IT IS HEREBY ORDERED that the trial date be continued from Monday, September 21, 2009, to Monday, November 16, 2009.

THE COURT FINDS that failing to exclude the time between September 21 and October 5, 2009, and the time between October 19 and November 16, 2009, would unreasonably deny the parties' continuity of counsel, and would unreasonably deny counsel the reasonable time necessary for effective preparation, taking into account the exercise of due diligence. *See* 18 U.S.C. § 3161(h)(7)(B)(iv).

THE COURT FURTHER FINDS that the ends of justice served by excluding the time between September 21 and October 5, 2009, and the time between October 19 and November 16, 2009, from computation under the Speedy Trial Act outweigh the best interests of the public and the defendant in a speedy trial.

THEREFORE, IT IS HEREBY ORDERED that the time between September 21 and October 5, 2009, and the time between October 19 and November 16, 2009, shall be excluded from computation under the Speedy Trial Act. 18 U.S.C. § 3161(h)(7)(A) and (B)(iv).

**\*The Pretrial Conference is also continued from 9/10/09 to 11/12/09 @ 2:00 pm.**

IT IS SO ORDERED.

Dated: 9/9/09

  
THE HONORABLE RONALD M. WHYTE  
United States District Court